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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/502,307	07/22/2004	Roberto Burioni	937-PCT-US	9195
7590	08/23/2006			EXAMINER LUCAS, ZACHARIAH
Albert Wai-Kit Chan Law Offices of Albert Wai-Kit Chan 141-07 20th Avenue World Plaza, Suite 604 Whitestone, NY 11357			ART UNIT 1648	PAPER NUMBER
DATE MAILED: 08/23/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/502,307	BURIONI, ROBERTO
	<b>Examiner</b> Zachariah Lucas	<b>Art Unit</b> 1648

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 22 July 2004.

2a) This action is FINAL.                  2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-3 and 12-29 is/are pending in the application.

  4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) \_\_\_\_\_ is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) 1-3 and 12-29 are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

  1. Certified copies of the priority documents have been received.

  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

1. Application/Control Number: 10/502,307

2. Page 2

3. Art Unit: 1648

4.

5.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-3, 27, 28, drawn to neutralizing anti-HCV antibodies that bind the HCV E2 protein.

Group II, claim(s) 12-14, drawn to methods for validating anti-HCV vaccines using the antibodies of Group I.

Group III, claim(s) 15-23, drawn to nucleic acids that encode the antibodies of Group I.

Group IV, claim(s) 24-26, drawn to methods of using the nucleic acids of Group III.

Group V, claim(s) 29, drawn to a method for the detection of anti-HCV antibodies.

2. The inventions listed as Groups I-V do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: these inventions are linked by the common technical feature of anti-HCV neutralizing antibodies that bind to the HCV E2 protein. Such antibodies are disclosed in each of Burioni et al. (Virology 288: 29-35- of record in the IDS of July 22, 2004) and Habersetzer et al. (Virology 249: 32-41). Thus, there is no common special technical feature uniting the claimed inventions. Unity is therefore lacking.

### ***Species Election***

1. Application/Control Number: 10/502,307

2. Page 3

3. Art Unit: 1648

4.

5.

3. This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

**If any of Groups I-IV above is elected,** the Applicant is further required to elect one of the following species represented by

(A) embodiments wherein the antibody is that described in claim 2 (claims 2, 13, 16, 19, 22, 25, 27, and 28); or

(B) embodiments wherein the antibody is that described in claim 3 (claims 3, 14, 17, 20, 23, and 26-28).

4. Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

The claims are deemed to correspond to the species listed above in the following manner:  
The claims drawn to the two species are indicated in the description of the species above.

1. Application/Control Number: 10/502,307

2. Page 4

3. Art Unit: 1648

4.

5.

The following claim(s) are generic: claims 1, 12, 15, 18, 21, 24, 27, and 28.

5. The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: the species lack unity for the same reasons as described with respect to Groups I-V above.

***Examiner's Notes***

6. It is noted that each of claims 12-14, and 24-26 are drawn to methods without describing any steps that are to be performed in the methods. This is not a proper claim format in U.S. Patent practice. Thus, if Groups comprising any of these claims are elected, the claims will be rejected as indefinite under 35 U.S.C. 112, second paragraph.

***Conclusion***

7. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In

1. Application/Control Number: 10/502,307

2. Page 5

3. Art Unit: 1648

4.

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either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103 (a) of the other invention.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zachariah Lucas whose telephone number is 571-272-0905. The examiner can normally be reached on Monday-Friday, 8 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bruce Campell can be reached on 571-272-0974. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Z. Lucas  
Patent Examiner